

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DOCKET

UNITED STATES OF AMERICA, for the use)
of ROBERT J. CUMMINS, d/b/a BOB)
CUMMINS CONSTRUCTION COMPANY,)
Plaintiff,) CASE NO: 1:20-cv-197
vs.)
ZURICH AMERICAN INSURANCE)
COMPANY and FIDELITY AND DEPOSITS)
COMPANY OF MARYLAND and KELLER)
WALLS, INC.)
Defendants.) JUDGE: Cathy Bissoon

JOINT MOTION TO CONTINUE TRIAL

Plaintiff the United States of America, for the use of Robert J. Cummins, d/b/a Bob Cummins Construction Company’s (“Plaintiff”) and Defendants Zurich American Insurance Company, Fidelity and Deposits Company of Maryland, and Keller Walls, Inc. (together, “Defendants”) respectfully and jointly move the Court to continue the trial currently scheduled for October 24, 2022, to any of the following dates which the parties confirm are presently open and available for each side:

- November 8, 2022¹
- January 9, 2023
- January 16, 2023

The parties further ask that the Court to extend the pretrial deadlines as set forth in the court’s May 11, 2022 order to commensurate with the revised trial date.

¹ A starting date of November 7, 2022 could also work for the parties should the Court prefer to start trials on Mondays.

The Parties request this continuance due to a scheduling conflict for lead counsel for Defendants. Attorney Richard Kalson is scheduled to be in an American Arbitration Association full hearing in the matter of *Corrosion Resistance LTD v. Spider, a Division of Safeworks, LLC*, case number 01-21-0016-7974, from October 24, 2022 through October 27, 2022 and resuming again October 31, 2022 through November 2, 2022 (see attached **Exhibits A** and **B**). The scheduling order therein was issued on February 9, 2022.

The Parties also respectfully request that the Court extend the dates in the May 11, 2022 order's schedule—i.e., the dates for pretrial statements, motions *in limine*, proposed jury instructions, etc.—to reflect the new trial date. The Parties' proposed modifications to the Order will not prejudice the Parties and will not adversely impact the administration of this lawsuit.

This Joint Motion is not interposed for the purposes of delay, and this continuance will not prejudice the parties. Counsel have conferred with the court's deputy as to the newly proposed trial date. A Proposed Order granting this Motion is attached hereto.

Dated: June 2, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2022 a copy of the foregoing *Joint Motion to Continue Trial* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

s/ Richard D. Kalson

Richard D. Kalson

*Attorney for Defendants Keller, Zurich, and
Fidelity*

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COMPANY OF MARYLAND and KELLER)
WALLS, INC.)
Defendants.)

[PROPOSED] ORDER GRANTING JOINT MOTION TO CONTINUE TRIAL

The Court has reviewed the Parties' Joint Motion to Continue Trial. For good cause shown, IT IS ORDERED that the Parties' Joint Motion is GRANTED. IT IS FURTHER ORDERED that the trial in this matter is now scheduled for _____, 202___. IT IS FURTHER ORDERED that the Final Pretrial Order is modified such that the filing and conference dates reflected therein are extended to commensurate with the revised trial date.

Dated:

s/
Honorable Cathy Bissoon
United States District Judge